



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB0385

Introduced 2/15/2005, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

205 ILCS 5/16

from Ch. 17, par. 323

Amends the Illinois Banking Act. Provides that, unless prohibited by (now, if authorized by) the bank's by-laws, the directors of a State bank may properly fill a vacancy arising between shareholders' meetings by appointment. Provides that any director appointed to fill a vacancy arising between shareholders' meetings shall serve until the next meeting of shareholders at which directors are elected.

LRB094 09661 MKM 39916 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Banking Act is amended by changing
5 Section 16 as follows:

6 (205 ILCS 5/16) (from Ch. 17, par. 323)

7 Sec. 16. Directors. The business and affairs of a State
8 bank shall be managed by its board of directors that shall
9 exercise its powers as follows:

10 (1) Directors shall be elected as provided in this Act. Any
11 omission to elect a director or directors shall not impair any
12 of the rights and privileges of the bank or of any person in
13 any way interested. The existing directors shall hold office
14 until their successors are elected and qualify.

15 (2) (a) Notwithstanding the provisions of any charter
16 heretofore or hereafter issued, the number of directors,
17 not fewer than 5 nor more than 25, may be fixed from time
18 to time by the stockholders at any meeting of the
19 stockholders called for the purpose of electing directors
20 or changing the number thereof by the affirmative vote of
21 at least two-thirds of the outstanding stock entitled to
22 vote at the meeting, and the number so fixed shall be the
23 board regardless of vacancies until the number of directors
24 is thereafter changed by similar action.

25 (b) Notwithstanding the minimum number of directors
26 specified in paragraph (a) of this subsection, a State bank
27 that has been in existence for 10 years or more and has
28 less than \$20,000,000 in assets, as of the December 31
29 immediately preceding the annual meeting of shareholders
30 at which directors are elected, may, subject to the
31 approval of the Commissioner, have a minimum of 3
32 directors; provided that if a State bank has fewer than 5

1 directors, at least one director shall not be an officer or
2 employee of the bank. The Commissioner shall annually
3 review the appropriateness of the grant of authority to
4 have a reduced minimum number of directors pursuant to this
5 paragraph (b).

6 (3) Except as otherwise provided in this paragraph (3),
7 directors shall hold office until the next annual meeting of
8 the stockholders succeeding their election or until their
9 successors are elected and qualify. If the board of directors
10 consists of 6 or more members, in lieu of electing the
11 membership of the whole board of directors annually, the
12 charter or by-laws of a State bank may provide that the
13 directors shall be divided into either 2 or 3 classes, each
14 class to be as nearly equal in number as is possible. The term
15 of office of directors of the first class shall expire at the
16 first annual meeting of the stockholders after their election,
17 that of the second class shall expire at the second annual
18 meeting after their election, and that of the third class, if
19 any, shall expire at the third annual meeting after their
20 election. At each annual meeting after classification, the
21 number of directors equal to the number of the class whose
22 terms expire at the time of the meeting shall be elected to
23 hold office until the second succeeding annual meeting, if
24 there be 2 classes, or until the third succeeding annual
25 meeting, if there be 3 classes. Vacancies may be filled by
26 stockholders at a special meeting called for the purpose.

27 Unless prohibited ~~If authorized~~ by the bank's by-laws or an
28 amendment thereto, the directors of a State bank may properly
29 fill a vacancy or vacancies arising between shareholders'
30 meetings by appointment, but at no time may the number of
31 directors appointed ~~selected~~ to fill a vacancy in this manner
32 during any interim period between shareholders' meetings
33 exceed 33 1/3% of the total membership of the board of
34 directors. Any director appointed to fill a vacancy arising
35 between shareholders' meetings shall serve until the next
36 meeting of shareholders at which directors are elected.

1 (4) The board of directors shall hold regular meetings at
2 least once each month, provided that, upon prior written
3 approval by the Commissioner, the board of directors may hold
4 regular meetings less frequently than once each month but at
5 least once each calendar quarter. A special meeting of the
6 board of directors may be held as provided by the by-laws. A
7 special meeting of the board of directors may also be held upon
8 call by the Commissioner or a bank examiner appointed under the
9 provisions of this Act upon not less than 12 hours notice of
10 the meeting by personal service of the notice or by mailing the
11 notice to each of the directors at his residence as shown by
12 the books of the bank. A majority of the board of directors
13 shall constitute a quorum for the transaction of business
14 unless a greater number is required by the charter or the
15 by-laws. The act of the majority of the directors present at a
16 meeting at which a quorum is present shall be the act of the
17 board of directors unless the act of a greater number is
18 required by the charter or by the by-laws.

19 (5) A member of the board of directors shall be elected
20 president. The board of directors may appoint other officers,
21 as the by-laws may provide, and fix their salaries to carry on
22 the business of the bank. The board of directors may make and
23 amend by-laws (not inconsistent with this Act) for the
24 government of the bank and may, by the affirmative vote of a
25 majority of the board of directors, establish reasonable
26 compensation of all directors for services to the corporation
27 as directors, officers, or otherwise. An officer, whether
28 elected or appointed by the board of directors or appointed
29 pursuant to the by-laws, may be removed by the board of
30 directors at any time.

31 (6) The board of directors shall cause suitable books and
32 records of all the bank's transactions to be kept.

33 (7) (a) In discharging the duties of their respective
34 positions, the board of directors, committees of the board,
35 and individual directors may, in considering the best long
36 term and short term interests of the bank, consider the

1 effects of any action (including, without limitation,
2 action that may involve or relate to a merger or potential
3 merger or to a change or potential change in control of the
4 bank) upon employees, depositors, suppliers, and customers
5 of the corporation or its subsidiaries, communities in
6 which the main banking premises, branches, offices, or
7 other establishments of the bank or its subsidiaries are
8 located, and all pertinent factors.

9 (b) In discharging the duties of their respective
10 positions, the board of directors, committees of the board,
11 and individual directors shall be entitled to rely on
12 advice, information, opinions, reports or statements,
13 including financial statements and financial data,
14 prepared or presented by: (i) one or more officers or
15 employees of the bank whom the director believes to be
16 reliable and competent in the matter presented; (ii) one or
17 more counsels, accountants, or other consultants as to
18 matters that the director believes to be within that
19 person's professional or expert competence; or (iii) a
20 committee of the board upon which the director does not
21 serve, as to matters within that committee's designated
22 authority; provided that the director's reliance under
23 this paragraph (b) is placed in good faith, after
24 reasonable inquiry if the need for such inquiry is apparent
25 under the circumstances and without knowledge that would
26 cause such reliance to be unreasonable.

27 (Source: P.A. 91-452, eff. 1-1-00; 92-476, eff. 8-23-01.)